

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO ex rel.)	
STATE ENGINEER and the)	69cv07896-BB
)	Rio Pueblo de Taos Adjudication
Plaintiffs,)	
)	69cv7939 BB
vs.)	Rio Hondo Adjudication
)	(Consolidated)
EDUARDO ABEYTA, et al.)	
and CELSO ARELLANO,)	Rio Pueblo de Taos
et al.)	Upper Manuel Andres Trujillo Ditch
)	and Lower Manuel Andres Trujillo
<u>Defendants.</u>)	Ditch

CONSENT ORDER RECOGNIZING SEPARATE ACEQUIA
ASSOCIATIONS, CORRECTING HYDROGRAPHIC SURVEY,
AND RECOGNIZING PRIOR DECREES

THIS MATTER is before the Court on the Motion to Correct Hydrographic Survey (May 9, 2008, Docket No. 5083) ("Motion") filed by the Upper Manuel Andres Trujillo Community Ditch Association and the Lower Manuel Andres Trujillo Community Ditch Association ("Acequia Associations"). The parties to this Consent Order are the Acequia Associations and the State of New Mexico, ex rel. State Engineer ("State"). This Order incorporates the relevant provisions of the Court's Memorandum Opinion and Order (January 14, 2009, No. 5193).

The Court FINDS as follows:

1. The Court has jurisdiction over the parties.
2. This Consent Order resolves all claims of the Acequia Associations raised by the Motion.
3. The Upper Manuel Andres Trujillo Community Ditch Association and the Lower Manuel Andres Trujillo Community Ditch Association are also known as, respectively, the Upper Manuel Andres Trujillo Community Ditch and Lower Manuel Andres Trujillo Community Ditch.

4. The Upper Manuel Andres Trujillo Ditch and the Lower Manuel Andres Trujillo Ditch are separate and distinct acequias, each with their own commissions, commissioners, and mayordomos, and each providing water to separate and distinct tracts of land or subfiles.

5. The Acequia Associations receive water from a number of different sources as identified in the prior order entered in this cause (docket #4602) as amended (docket #5081) and share a main common point of diversion from the Arroyo Seco Stream, a tributary of the Rio Pueblo de Taos.

6. Those subfiles that receive water exclusively from the Upper Manuel Andres Trujillo Ditch are listed in the attached Exhibit "A."

7. Those subfiles that receive water exclusively from the Lower Manuel Andres Trujillo Ditch are listed in the attached Exhibit "B."¹

8. The Rio Pueblo de Taos hydrographic survey should be amended to recognize both the Upper Manuel Andres Trujillo Ditch and the Lower Manuel Andres Trujillo Ditch and the separate and distinct subfiles that receive water from each acequia.

9. Orders entered in this cause for the subfiles under each Acequia Association do not indicate whether they receive water from the Upper Manuel Andres Trujillo Ditch or the Lower Manuel Andres Trujillo Ditch.

10. Two decrees were entered in Taos County District Court Cause No. 2638 in 1932 and 1934 which relate to this matter. Copies of said decrees are hereinafter attached as Exhibit C." Any challenge to the validity of the decrees, or action to enforce them, should be the subject of a separate proceeding in the court with original jurisdiction over such an action.

¹ Exhibit B also identifies subfiles which receive water from both the Juan Manuel Lucero and the Lower Manuel Andres Trujillo Ditches.

11. The aforesaid Motion and this Consent Order do not affect or change the points of diversion or priority dates of the acequias or subfiles irrigated by them. The Court should amend the table on p. 6 of the February 3, 2003, Memorandum Opinion and Order (No. 3102) to (a) replace the reference to the Manuel Andres Trujillo Ditch with the two ditches and their priorities: The Upper Manuel Andres Trujillo Ditch, with a priority of 1829, and the Lower Manuel Andres Trujillo Ditch, with a priority of 1829; and (b) change the reference to the combined Juan Manuel Lucero & Manuel Andres Trujillo (Ditch) to read “Juan Manuel Lucero and *Lower* Manuel Andres Trujillo Ditch,” with a priority of 1829.

12. The changes made by this consent order constitute “clerical corrections” within the meaning of the June 7, 1995, Order of Procedures for Correcting and Amending Subfile Orders (No. 2337) (“Administrative Order”).

13. There is no just reason to delay entry of this Consent Order as a final judgment, as between the State and the Acequia Associations.

NOW, THEREFORE, IT IS HEREBY ORDERED and ADJUDICATED that:

a. The Upper Manuel Andres Trujillo Ditch and Lower Manuel Andres Trujillo Ditch shall be recognized as separate and distinct acequias and acequia associations, though they presently share a main common point of diversion.

b. Those subfiles that receive water from the Upper Manuel Andres Trujillo Ditch but not the Lower Manuel Andres Trujillo Ditch are listed in the attached Exhibit “A.”

c. Those subfiles that receive water from the Lower Manuel Andres Trujillo Ditch but not the Upper Manuel Andres Trujillo Ditch are listed in the attached Exhibit “B.”

d. Map sheets 5, 6, 7, 8, 9, 10, and 16 of the Rio Pueblo de Taos Hydrographic Survey shall be amended or corrected to properly identify the Upper Manuel Andres Trujillo Ditch and the Lower Manuel Andres Trujillo Ditch.


e. The subfiles under each Acequia Association shall be and hereby are amended to identify the acequia by which they receive water according to attached Exhibits "A" and "B."

f. The Court hereby takes judicial notice of the two decrees entered by the State of New Mexico District Court, Taos County, Cause No. 2683, for the limited purpose of recognizing the entry of these decrees. Copies of said decrees are attached as Exhibit "C." Any challenge to the validity of the decrees, or action to enforce them, shall be the subject of a separate proceeding in the court with original jurisdiction over the action.

g. The table on p. 6 of the February 3, 2003, Memorandum Opinion and Order (No. 3102) shall be amended to (1) replace the reference to the Manuel Andres Trujillo Ditch with the two ditches and their priorities: the Upper Manuel Andres Trujillo Ditch, with a priority of 1829, and the Lower Manuel Andres Trujillo Ditch, with a priority of 1929; and (2) change the reference to the combined Juan Manuel Lucero & Manuel Andres Trujillo (Ditch) to read "Juan Manuel Lucero and *Lower* Manuel Andres Trujillo Ditch," with a priority of 1829.

h. This Consent Order shall constitute a final judgment as between the State and the Acequia Associations, including its successors, representatives, and assigns. All other parties with standing shall be provided an opportunity to object to this Consent Order prior to entry of a final decree.

IT IS SO ORDERED.



BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Approved for entry:

Vickie L. Gabin

VICKIE L. GABIN
SPECIAL MASTER

APPROVED AND ACCEPTED BY:

DEFENDANT:

UPPER MANUEL ANDRES TRUJILLO DITCH ASSOCIATION

By: Donna LaRue
Commissioner

Date: March 20 09

By: Robert Joseph
Commissioner

Date: 3-23-09

By: [Signature]
Commissioner

Date: 4-3-09

LOWER MANUEL ANDRES TRUJILLO DITCH ASSOCIATION

By: Amaranto Chasen
Commissioner

Date: 3-20-09

By: Felix Santesca
Commissioner

Date: 3-20-09

By: Maryann Romo
Commissioner

Date: 3/20/09

Fred J. Waltz, attorney for the Upper Manuel Andres Trujillo Ditch Association
and the Lower Manuel Andres Trujillo Ditch Association

Fred J. Waltz
(Signature)

Date: April 6, 2009

STATE OF NEW MEXICO ex rel. STATE ENGINEER:

By: [Signature]
Special Assistant Attorney General

Date: 4/24/2009

Exhibit "A"
Upper Manuel Andres Trujillo Subfiles

Subfile Number	Date Filed	Docket Number
5.1	8/10/1973	418.4
5.2	4/8/1971	240.26
6.1	4/8/1971	240.26
6.2	6/6/1972	345.70
6.4	4/8/1971	240.26
6.5	6/6/1972	345.70
6.5A	9/30/1974	584.2
6.5B	9/30/1974	584.4
6.6	6/6/1972	345.71
6.7	6/8/2004	4499
7.1	7/18/1975	778.22
7.1A	7/18/1975	778.20
7.2	4/8/1971	240.28
7.28	11/9/1971	297
7.29	4/8/1971	240.48
7.3	6/6/1972	345.72
7.30	4/8/1971	240.50
7.31	4/8/1971	240.58
7.32	4/8/1971	240.44
7.33	9/13/1973	425.54
7.34	11/9/1971	297
7.35	6/6/1972	345.79
7.36	6/6/1972	345.80
7.37	4/8/1971	240.60
7.38	2/14/1974	460.27
7.39	4/8/1971	240.62
7.3A	5/10/1971	250.100
7.4	2/14/1974	460.27
7.40	6/14/1971	260.6
7.41	6/6/1972	345.79
7.42	6/14/1971	260.12
7.43	6/6/1972	345.81
7.43A	2/14/1974	460.28
7.44	6/14/1971	260.8
7.44A	6/14/1971	260.6
7.45	4/15/1976	879
7.46	4/8/1971	240.64
7.5	6/6/1972	345.73
7.5A	11/25/1975	827.24
7.5B	11/25/1975	827.30
7.5C	11/25/1975	827.28
7.5D	11/25/1975	827.26
7.6	4/8/1971	240.30

Exhibit "B"
Lower Manuel Andres Trujillo Subfiles

Subfile Number	Date Filed	Docket Number
7.10	2/14/1974	460.25
7.11	6/6/1972	345.74
7.12	4/8/1971	240.40
7.13	4/8/1971	240.38
7.14	8/10/1973	418.6
7.15	6/6/1972	345.75
7.16	4/8/1971	240.36
7.17	6/6/1972	345.76
7.18	6/6/1972	345.77
7.19	4/8/1971	240.52
7.20	2/14/1974	460.26
7.21	8/30/1971	273.154
7.22	4/8/1971	240.54
7.23	4/8/1971	240.40
7.24	7/18/1975	778.18
7.25	4/8/1971	240.42
7.26	4/8/1971	240.56
7.27	6/6/1972	345.78
7.7	4/8/1971	240.40
7.8	4/8/1971	240.32
7.9	4/8/1971	240.34
8.1*	5/24/1978	1332
8.10	10/23/2003	4285
8.2*	6/6/1972	345.82
8.3*	2/14/1974	460.29
8.7*	5/24/1978	1330
8.8*	4/26/1972	335.87
8.9*	10/6/2003	4251
9.1*	6/14/1971	260.10
9.2*	11/25/1975	827.22
9.2A*	6/14/1971	260.16
9.2B	2/9/2004	4397
9.3*	6/14/1971	260.20
9.4*	3/25/1977	958.14
9.5*	9/2/1970	214.144
9.6*	9/15/1977	982.20
9.7*	6/14/1971	260.204
9.7A*	12/19/1973	442.31
9.8*	3/25/1977	958.10
10.1*	3/25/1977	958.6
10.1A*	3/25/1977	958.12
10.2*	6/19/1972	352.69
10.2A*	7/18/1975	778.34
10.2B*	11/25/1975	827.42

Subfile Number	Date Filed	Docket Number
10.3*	3/25/1977	958.8
10.4*	5/10/1971	250.10
10.5*	6/17/1975	767
10.6*	5/10/1971	250.8
10.7*	6/6/1972	345.84
10.8*	5/10/1971	250.10
16.1*	6/14/1971	260.208

* Subfiles receive water from both the Lower Manuel Andres Trujillo Ditch and the Juan Manuel Lucero Community Ditch

TAOS COUNTY DISTRICT COURT RECORDS
Civil Cas 2638
NM State Records Center & Archives
404 Montezuma
Santa Fe, New Mexico

Exhibit "C"

STATE OF NEW MEXICO)
) IN THE DISTRICT COURT.
CO NTY OF TAOS.)

The Manuel Andres Trujillo ditch, a
community ditch, Eloisa T. Sisneros,
Jose M. Santistevan, Jesus M. Santistevan,
Pedro R. Trujillo, Laureano Mares,
Telesforo Quintana, Cristobal Quintana,
Santiago Martinez, Ramon Mares, Estate
of Severino Martinez and Eliseo Santistevan,

Plaintiffs,

vs.

Las Colonias Ditch, a community ditch,
Feliberto Garcia, Clara Garcia, Juan
N. Fresquez, Rafael Martinez, Amadeo
Mares, Laureano Garcia, Silas Rival,
Victor Martinez, Andres Martinez,
Samuel Martinez, Mardoqueo Martinez,
Pedro Valencia, Joe Arnold, Jacob G.
Moore, Reyes Martinez, Jose A. Lujan,
Damian Mascareñas, Ninfa M. de Lujan,
and Eutimio Martinez,

Defendants.

No. 2638

James Garcia

FINAL DECREE

The above entitled cause came on to be heard on its final
hearing on this 7th day of May, A. D. 1932, before the Hon.
H. A. Kiker, Judge of the Eighth Judicial District of the State
of New Mexico, sitting for the trial of causes arising under the
laws of the said State of New Mexico, in and for the County of
Taos, in said State, the plaintiffs being present in court by
their attorney, A. W. Rivera, for Cheetham & Rivera, and the
defendants being present by their attorney, Floyd W. Bantler,
for Barker, Fahy and Bantler, and the court having fully infor-
med in the premises and having heard counsel for both sides the
court finds:

FINDINGS OF THE LAW.

L. That the Manuel Andres Trujillo Ditch is a community
ditch, organized and existing under the laws of the State of New

STATE'S
EXHIBIT
CV 7896 7939
108

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the State of New Mexico State Records
Center.

29 Aug 90 *J. Richard Selig*
Clerk J. Richard Selig

TAOS

* (17) Mexico, as a community ditch or acequia, drawing its water from the main channel of the Arroyo Seco Creek or River in Taos County for the purpose of irrigation of agricultural lands on the main valley of the said Arroyo Seco Creek or river and the plaintiffs, Eloisa T. Sisneros, Jose M. Santistevan, Jesus M. Santistevan, Ramon Mares, Pedro R. Trujillo, Estate of Severino Martinez, Laureano Mares, Eliseo Santistevan, Telesforo Quintana, Cristoval Quintana, and Santiago Martinez, are the owners of the said acequia and legally entitled to the use of water for irrigation from the said Acequia or community ditch.

2. That the Las Colonias Ditch is a community ditch organized and existing under the laws of the State of New Mexico as a community ditch or acequia, drawing its water from the main channel of the Arroyo Seco Creek or River in Taos County for the purpose of irrigation of agricultural lands of the main valley of said Arroyo Seco Creek or river, and the defendants, Feliberto Garcia, Clara Garcia, Jose Garcia, Juan N. Fresquez, Rafael Martinez, Anadeo Mares, Laureano Garcia, Silas Rival, Victor Martinez, Andrea Martinez, Samuel Martinez, Mardoqueo Martinez, Pedro Valencia, Joe Arnold and Jacob C. Moore are the owners and participants of the said Acequia and legally entitled to the use of water for irrigation from said Las Colonias Community ditch or Acequia.

3. That both the plaintiff ditch & The Manuel Andres Trujillo Ditch, and the defendant, The Las Colonias Ditch, are equally entitled to the use of water for irrigation purposes as to priority or seniority and as to the amount of water used or diverted from the said Arroyo Seco Creek or River for such purposes each one of said ditches being entitled to one-half of such waters so diverted from the said stream.

FINDINGS OF FACT.

1. As findings of fact the Court finds that the Manuel Andres Trujillo Ditch through its regularly acting ditch commissioners and its regularly acting Mayordomo or Ditch Boss and according to law and common usages, rules and regulations has been drawing water from the said Arroyo Seco Creek or River, and applying it to a beneficial use for domestic and agricultural purposes upon the homes and lands of the defendants, Eloisa T. Sinneros, Jose M. Santistevan, ^{Ramon} ~~Medvedev~~ Mares, Jesus M. Santistevan, Pedro R. Trujillo, Laureano Mares, Telesforo Quintana, Cristoval Quintana and Santiago Martinez, through themselves and their predecessors in title and interest for over eighty years, continuously and without interruption for the irrigation of about two thousand (2000) acres of land on the main valley of the said Arroyo Seco Creek or River.

2. That the Las Colonias Ditch through its regularly acting ditch commissioners and its regularly acting mayordomo or ditch boss and according to law and the common usages, rules and regulations, has been drawing water from the said Arroyo Seco Creek or River and applying it to a beneficial use for domestic and agricultural purposes upon the homes and lands of the defendants, Feliberto Garcia, Clara Garcia, Josue Garcia, Juan N. Fresquez, Rafael Martinez, Amadeo Mares, Laureano Garcia, Sillas Rival, Victor Martinez, Andres Martinez, Samuel Martinez, Mardoqueo Martinez, Pedro Valencia, Joe Arnold and Jacob C. Moore, ⁽³⁾ through themselves and their predecessors in title and interest for over thirty years continuously and without interruption for the irrigation of about two thousand (2000) acres of land on the main valley of the said Arroyo Seco Creek or river.

3. That about ten years ago, or about the year 1922, the flood waters of the said Arroyo Seco Creek destroyed the diversion dams of both ditches which said diversion dams were located a short distance from each other, and in rebuilding the said dams, by agreement between the commissioners of both ditches, one dam was built and the two

to be filed in the court records in
the case of the above named parties
on the 29th day of August 1990

29 Aug 90 *J. M. [Signature]*
J. M. [Signature]

ditches consolidated into the channel of the Manuel Andres Trujillo ditch for a distance of about three hundred (300) yards⁽⁴⁾ at which point the two ditches divided from each other, the Las Colonias ditch crossing the Arroyo Seco Creek to the south side of the said creek and the Manuel Andres Trujillo ditch, keeping on the North side of the said creek.

NOW THEREFORE, It is ORDERED, ADJUDGED and DECREED as follows, to-wit:

1. That the irrigating or acequias heretofore known as the Manuel Andres Trujillo Ditch and the Las Colonias Ditch shall hereafter be and are hereby decreed to be henceforth one community ditch owned by and to be used for the benefit of the parties heretofore owning rights in the aforesaid Manuel Andres Trujillo Ditch and the Las Colonias Ditch, and the rights of said parties in said community ditch shall be as hereinafter specified.

2. That said community ditch shall hereafter be considered as being divided into two portions, one portion thereof running on the west side of the Arroyo Seco Creek, and which said division shall be known as the Manuel Andres Trujillo division, and that the other division of said ditch shall cross the Arroyo Seco Creek and run on the east side of the said Arroyo Seco Creek which said division shall be known as the Las Colonias division.

3. That hence forward all of those certain lands lying along and obtaining water by and through the diversion ditch or acequia hereinbefore referred to as the Manuel Andres Trujillo Ditch, and being the lands presently owned by the following named persons, both plaintiff and defendants, to-wit: Eloisa T. Sianeros, Jose M. Santistevan, ~~Cleovelo Mares~~, Jesus M. Santistevan, Ramon Mares, Pedro R. Trujillo, Estate of Severino Martinez, Laureano Mares, Eliseo Santistevan, ~~Victor Martinez~~, ~~Andres Martinez~~, ~~Samuel Martinez~~, ~~Mardoquea Martinez~~, and ~~Pedro Valencia~~, shall be entitled to and

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29 Aug 90 J. Michael Salyer
CRO

shall receive water from the portion hereby allotted to the owners of land to be watered by, through and under the said Manuel Andres Trujillo Ditch; and those certain lands lying along and obtaining water by and through the diversion ditch or acequia hereinbefore referred to as the Las Colonias Ditch and being the lands presently owned by the following named persons, to-wit: Filiberto Garcia, Pedro Valencia, Reyes Martinez, Clara Garcia, Jose M. Lujan, Josue Garcia, ~~Manuel Lujan~~ Damian Mascareñas, Juan M. Fresquez, Mardoqueo Martinez, Amadeo Nares, Samuel Martinez, Laureano Garcia, Ninfia M. Lujan, Silas Rival, Joe Arnold and Eutimio Martinez, shall be entitled to and shall receive water from the portion thereof hereby allotted to the owners of land to be watered by, through and under the said Las Colonias Ditch. 5

4. That henceforward those certain lands presently owned by Jacob Moore and Joe Arnold, lying along the main ditch shall receive water from the community ditch directly, but the said Jacob Moore is hereby required to forthwith construct at his own expense, a diversion ditch, lateral ditch, connecting with said community ditch at a convenient point at or near the extreme north end of his property and to equip the same with a good and sufficient headgate.

5. That all persons owning rights or interests in said Ditch or in the water thereof shall contribute equally to the cleaning and maintenance of said ditch and all ditches connected with said irrigating system, including the DesMontes Ditch, said fatigue work or assessment to be assessed and enforced by the ditch commissioners of said consolidated ditch.

6. That hereafter three ditch commissioners shall be elected for said community ditch, in the manner provided by law and of these three commissioners, two shall be elected during the year 1933 and in all successive odd calendar years from the people owning land under the Las Colonias Division of said ditch and one from among the people owning lands under the Manuel Andres Trujillo division

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the files of the U.S. District Court for the District of Columbia
Center Building

29 Aug 90

J. M. Salyer
J. M. Salyer

of said ditch; and in the year 1934 and in all succeeding even calendar years two commissioners shall be elected from among the people owning land under the Manuel Andres Trujillo division of said ditch and one from among the people owning lands under the Las Colonias division of said community ditch.

7. That the waters of the said consolidated ditch shall be equally divided between the two divisions of said consolidated ditch at all times when there is an abundance of water, and whenever, in the opinion of the ditch commissioners the water has become so low that a division of the water is not advisable, the said ditch commissioners shall permit the whole volume of water to run on one division at a time and equally divide the time so that the whole volume of water shall run not more than three and one-half days at a time on the same division of the ditch for an equal length of time.

8. That the said Jacob Moore and Joe Arnold shall be allowed to divert water into their lateral ditches at such time and in such amounts and in such manner as the mayordomo from the Manuel Andres Trujillo Division, may prescribe, ~~and said parties shall at all times receive water under the division thereof running to the Manuel Andres Trujillo Division.~~

9. That the owners of land under the Manuel Andres Trujillo division of said consolidated ditch ⁽⁶⁾ shall elect one mayordomo or ditch boss who shall, in the manner now provided by law, manage and control the said division of said consolidated ditch and no more, and likewise the owners of land under the Las Colonias division of said consolidated ditch shall elect one mayordomo or ditch boss who shall, in the manner now provided by law, manage and control said division of said consolidated ditch, and no more, but neither one of the said mayordomos shall have any right to interfere in or with the division of the water at the gate where the two divisions separate. ⁽¹⁾

I certify that this is a true and correct copy of a document in the records of the County of Santa Fe, New Mexico.

21 Aug 90 *[Signature]*

29 Aug 90 J. Richard Salazar
 Date

10. That at any time when the said Arroyo Seco Creek shall become dry and there shall be no water in said ditch, any land owner on either division of said consolidated ditch may procure or obtain a water concession or auxilio from the Arroyo Seco ditch, from the Rebalce ditch or from any other source and shall have the right to run his water through the channel of the consolidated ditch into the corresponding division of said consolidated ditch where the land is located, but he shall give notice that he expects to use the ditch to the mayordomo, at least 48 hours prior to such use, and no person shall interfere with the running of such water during the time that said auxilio or water concession shall last, but no person shall so use such ditch for more than forty-eight (48) hours at a time in preference to any other land owner who may also desire to use the said ditch for a like purpose.

11. That at such time as the water shall be divided in the manner as in the sixth paragraph hereof prescribed, the mayordomos shall, at such times make such division from the division box of said ditches.

12. It is further ordered that each of the parties hereto shall pay their own costs of suit herein.

Done in open Court at Taos, New Mexico, this 7th day of May, A. D. 1932..

H. A. Kiker
 District Judge.

I hereby certify that the foregoing pleading is a true or correct copy of same which has been filed in my office on the 27th day of July 1934
 Dated this 16th day of May 1971

State of New Mexico,
 County of Taos.

ss.

Janett Martinez
 District Court Clerk
 By Frederick Salazar
 Deputy

I, J. A. DesGeorges, County Clerk & Clerk of the District Court in and for the County of Taos, New Mexico, do hereby certify that the above and foregoing is a true, correct and complete copy and exemplification of the decree made and entered in the above entitled and numbered cause, the original of which is on file in my office and of record.

Witness my hand and the seal of this office this 12th day of May, 1932.

J. A. DesGeorges
 Clerk
 By _____
 Deputy.

STATE OF NEW MEXICO)

: ss.

IN THE DISTRICT COURT.

COUNTY OF TAOS)

The Manuel Andres Trujillo Ditch, a
Community Ditch, Eloisa T. Sisneros,
Jose M. Santistevan, Jesus M. Santis-
tevan, Pedro R. Trujillo, Laureano
Mares, Telesforo Quintana, Cristobal
Quintana, Santiago Martinez, Ramon
Mares, Estate of Severino Martinez,
and Eliseo Santistevan, Clodoveo Mares,

Plaintiffs.

vs.

No. 2638.

Las Colonias Ditch, a Community Ditch,
Feliberto Garcia, Clara Garcia, Juan
N. Fresquez, Rafael Martinez, Amadeo
Mares, Laureano Garcia, Silas Rival,
Victor Martinez, Andres Martinez,
Samuel Martinez, Mardoqueo Martinez,
Pedro Valencia, Joe Arnold, Jacob C.
Moore, Reyes Martinez, Jose A. Lujan,
Damian Mascarenas, Nimfa M. Lujan,
and Lutimio Martinez, Josue Garcia,

Defendants.

FINAL DECREE.

The above entitled cause came on to be heard on its
final hearing on this 23 day of ^{July}~~June~~, A. D. 1934, before the
Honorable Livingston N. Taylor, Judge of the Eighth Judicial
District of the State of New Mexico, sitting for the trial of
causes arising under the laws of the said State of New Mexico,
in and for the County of Taos, in said State, the plaintiffs being
present in court by their attorneys, Kiker & Fernandez, and the
defendants being present by their attorney, Floyd W. Beutler,
and the Court having been fully informed in the premises and
having heard counsel for both sides, the Court finds:

1. As findings of fact the Court finds that the Manuel
Andres Trujillo Ditch, through its regularly acting ditch com-
missioners and its regularly acting Mayordomo or Ditch Boss, and
according to law and common usages, rules and regulations, has
been drawing water from the said Arroyo Seco Creek or River, and
applying it to a beneficial use for domestic and agricultural
purposes upon the homes and lands of the plaintiffs, Eloisa T.

Sisherros, Jose M. Santistevan, Clodoveo Mares, Jesus M. Santistevan, Pedro R. Trujillo, Laureano Mares, Telesforo Quintana, Cristobal Quintana, Santiago Martinez, Eliseo Santistevan and Estate of Severino Martinez, through themselves and their predecessors in title and interest, for over eighty years, continuously and without interruption, for the irrigation of about two thousand (2000) acres of land on the main valley of the said Arroyo Seco Creek or River, and below the division line known as the Gallegos Line or linderero.

2. That the Las Colonias Ditch, through its regularly acting ditch commissioners, and its regularly acting Mayordomo or Ditch Boss, and according to law and the common usages, rules and regulations, has been drawing water from the said Arroyo Seco Creek or River and applying it to a beneficial use for domestic and agricultural purposes upon the homes and lands of the defendants, Feliberto Garcia, Clara Garcia, Josue Garcia, Juan N. Fresquez, Rafael Martinez, Amadeo Mares, Laureano Garcia, Silas Rival, Victor Martinez, Andres Martinez, Samuel Martinez, Mardoqueo Martinez, Pedro Valencia, Joe Arnold, Jacob C. Moore, Reyes Martinez, Jose A. Lujan, Damian Mascarenas, Nimfa M. Lujan, and Eutimio Martinez, through themselves and their predecessors in title and interest, for over thirty years continuously and without interruption, for the irrigation of about two thousand (2000) acres of land on the main valley of the said Arroyo Seco Creek or River, and above the diversion line known as the Gallegos Line or linderero.

3. That about ten years ago, or about the year 1922, the flood waters of the said Arroyo Seco Creek destroyed the diversion dams of both ditches, which said diversion dams were located a short distance from each other, and in rebuilding the said dams by agreement between the commissioners of both ditches, one dam was built and the two ditches consolidated into the channel of the Manuel Andres Trujillo Ditch for a distance of about three hundred (300) yards, more or less, at which point the two ditches divide from

each other, the Las Colonias Ditch crossing the Arroyo Seco Creek to the south side of the said creek and the Manuel Andres Trujillo Ditch, keeping on the north side of said creek.

CONCLUSIONS OF LAW.

1. That the Manuel Andres Trujillo Ditch is a community ditch, organized and existing under the laws of the State of New Mexico, as a community ditch or acequia, drawing its waters from the main channel of the Arroyo Seco Creek or River in Taos County, for the purpose of irrigation of agricultural lands on the main valley of the said Arroyo Seco Creek or River, and below the division line known as the Gallegos Line, or lindero, and the plaintiffs, Eloisa T. Sisneros, Jose M. Santistevan, Jesus M. Santistevan, Ramon Mares, Pedro R. Trujillo, Estate of Severino Martinez, Laureano Mares, Eliseo Santistevan, Telesforo Quintana, Cristobal Quintana, Santiago Martinez and Clodoveo Mares, are the owners of the said acequia and legally entitled to the use of water for irrigation from the said Acequia or community ditch.

2. That the Las Colonias Ditch is a community ditch, organized and existing under the laws of the State of New Mexico as a community ditch or acequia, drawing its water from the main channel of the Arroyo Seco Creek or River in Taos County for the purpose of irrigation of agricultural lands of the main valley of said Arroyo Seco Creek or River, and above what is known as the Gallegos Line, or Gallegos Lindero, and the defendants, Feliberto Garcia, Clara Garcia, Josue Garcia, Juan N. Fresquez, Rafael Martinez, Amadeo Mares, Laureano Garcia, Silas Rival, Victor Martinez, Andres Martinez, Samuel Martinez, Mardoqueo Martinez, Pedro Valencia, Joe Arnold, Jacob C. Moore, Reyes Martinez, Jose A. Lujan, Damian Mascarenas, Nimfa M. Lujan, and Eutimio Martinez, are the owners and participants of the said acequia, and legally entitled to the use of water for irrigation from said Las Colonias' Community Ditch or Acequia.

3. That both the plaintiff ditch, The Manuel Andres Trujillo Ditch, and the defendant, The Las Colonias Ditch, are equally

entitled to the use of water for irrigation purposes as to priority or seniority, and as to the amount of water used or diverted from the said Arroyo Seco Creek or River, for such purposes each of said ditches being entitled to one-half of such waters so diverted from the said stream. —

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiffs, as the Manuel Andres Trujillo Ditch, are entitled to one-half of the waters diverted from the Arroyo Seco through the common diversion dam and headgate of the Manuel Andres Trujillo Community Ditch and the Las Colonias Community Ditch, for the irrigation of their lands situated below the division line known as the Gallegos Line, or Lindero, in the Arroyo Seco Valley; and that the defendants, as the Las Colonias Community Ditch, are entitled to one-half of the waters diverted from the Arroyo Seco through the diversion dam and headgate of the said Manuel Andres Trujillo Community Ditch and the Las Colonias Community Ditch, for the irrigation of their lands situated above the division line known as the Gallegos Line, or Lindero, in the Arroyo Seco Valley.

That plaintiffs and defendants, and their successors in title, shall contribute equally to the cleaning and maintenance of the common portion of said ditches, that is to say, from the point of diversion to the point of division of said community ditches.

That the use of said water shall be divided in the following manner, to-wit: The defendants shall have the uninterrupted use of all the water for the irrigation of their lands, situated above the Gallegos Line, or Lindero, through the common diversion works and the Las Colonias Ditch, from twelve o'clock noon on each and every Sunday, until the hour of six o'clock in the evening of the following Wednesday; and the plaintiffs shall have the uninterrupted flow and use of all the water for the irrigation of their lands, situated below the Gallegos Line, or

12 noon	12	SUNDAY	6 AM	Thursday	12
	24	Monday		Friday	12
	24	Tuesday		Saturday	12
	24	Wednesday		Sunday	12
6 PM	12	Wednesday	12 noon	Sunday	12
	24	Thursday		Monday	12

12 hrs uninterrupted

Lindero, through the common diversion works and the Manuel Andres Trujillo Ditch, from six o'clock in the morning of each and every Thursday until the hour of twelve o'clock noon the following Sunday; and that each of said Community Ditches shall have the uninterrupted flow and use of all of the water on alternate weeks for the period from six o'clock p. m. Wednesday to six o'clock, a. m. Thursday, that is to say, the plaintiffs shall have the use of the water during said twelve-hour period one week, and the defendants shall have the use of the water during said twelve-hour period the following week; and that for such portions of land belonging to defendants as lie below the Manuel Andres Ditch, but above said Gallegos Line, or Lindero, and which are entitled to water from the Las Colonias Ditch, the defendant owners thereof shall have the privilege of utilizing the Manuel Andres Trujillo Ditch, as a lateral to convey their said water to their lands during the period of time, and from the waters allotted to the defendants, provided they shall assist in the cleaning and maintenance of that portion of the Manuel Andres Trujillo Ditch, in proportion to their irrigated acreage served through the same.

IT IS FURTHER ORDERED that at the beginning of each irrigation season, in starting the alternate rotation of irrigation as between the plaintiff community ditch and the defendant community ditch, the plaintiff community ditch shall have the first three days of irrigation, as above provided, and the first Wednesday night period, and,

IT IS FURTHER ORDERED that during the period when plaintiffs shall be irrigating in their turn, as above provided, they may use the Arroyo Seco Creek to distribute waters through laterals below the diversion point of the main ditch, and defendants shall in no way interfere with any of the water in the creek, but all of the same shall be under the full control of the plaintiff's Mayor-domo, it being understood that all of said waters, whether diverted

into the main ditch, or permitted to run down the Arroyo Seco to the laterals, is, during such period, the exclusive property of plaintiffs as if the same had been diverted at the dam; and, likewise, during the period when defendants shall be irrigating in their turn, as above provided, they may use the Arroyo Seco Creek to distribute waters through laterals below the diversion point of the main ditch, and plaintiffs shall in no way interfere with any of the water in the creek, but all of the same shall be under the full control of the defendants' Mayordomo, it being understood that all of said waters, whether diverted into the main ditch, or permitted to run down the Arroyo Seco to the laterals, is, during such period, the exclusive property of defendants as if the same had been diverted at the dam.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the plaintiffs and each of them be, and they are hereby, enjoined from in any way interfering with the use of the waters allotted to defendants in the manner and at the times above specified; and that defendants likewise be and they are hereby enjoined from in any way interfering with the use of the waters allotted to plaintiffs in the manner and at the times above specified.

IT IS FURTHER ORDERED that a certified copy of this decree be served on each of the commissioners of said ditches, and on each of the mayordomos, now acting and charged with the duty of apportioning and distributing said waters.

Done this 23 day of July, 1934.

H. L. Adams
OK *Bennett*

Livingston H. Taylor
District Judge.